



SUMMARY OF SIGNIFICANT CHANGES TO HAWAII'S REGISTRATION LAW FOR PROFESSIONAL SOLICITORS AND PROFESSIONAL FUNDRAISING COUNSEL

Effective July 1, 2005, the Attorney General's office is taking over the registration and bonding requirements of Hawaii's charitable solicitation law, chapter 467B, Hawaii Revised Statutes. There are significant changes to the registration law. Among the significant changes include:

- 1. Bond Amount and Annual Fee Increase.** The bonding requirement has increased to \$25,000 and the annual registration fee has increased to \$250.00.
- 2. Filing of Contracts with Attorney General.** Section 467B-12.5, Hawaii Revised Statutes requires solicitors and fundraising counsel to file every contract with a charitable organization that provides for the solicitation of Hawaii residents, donors or consumers. The contracts must be filed with the Attorney General at least ten business days before commencing services. Prior law only required the filing of contracts that provided for percentage-based compensation. Thus, it may be necessary for you to supplement your prior filings.
- 3. Required Contractual Provisions.** Section 467B-12.5, Hawaii Revised Statutes now requires that every contract between a charity and professional solicitor or fundraising counsel must contain the information contained in Exhibit A.
- 4. Deposit of Funds within Five Days in Account in the Name of the Charity and Controlled by the Charity.** Hawaii's new law provides that each contribution in the control or custody of the professional solicitor, in its entirety and within five days of its receipt, shall be deposited in an account at a bank or other federally insured financial institution, which shall be in the name of the charitable organization. The charitable organization shall maintain and administer the account and shall have sole control of all withdrawals.
- 5. End of Campaign Financial Report.** Under amendments to our law, within ninety days after a solicitation campaign or event has been completed and on the anniversary of the commencement of a solicitation campaign lasting more than one year, a professional solicitor

shall file with the attorney general a financial report for the campaign, including gross revenue and an itemization of all expenses incurred. This report shall be signed and sworn to by the authorized contracting agent for the professional solicitor and two authorized officials of the charitable organization. A copy of the financial report form is attached.

6. Penalties. There are criminal penalties for knowing violations of Hawaii's registration law, or for knowingly providing false information in statements or reports filed with the Attorney General. The violation of the law is also an unfair trade practice and the Attorney General has been given administrative powers to suspend or to revoke registrations.

During the next renewal cycle solicitors and fundraising counsel will renew their registrations, file bonds and pay renewal fees using an Internet based registration system. The system will also be used to upload contracts. Additional information will be forthcoming on the new system.

EXHIBIT A

**REQUIRED CONTRACTUAL PROVISIONS FOR PROFESSIONAL
SOLICITORS AND FUNDRAISING COUNSELS**

Every contract between a professional solicitor or fundraising counsel and a charitable organization must contain the following information:

- (1) The legal name and address of the charitable organization;
- (2) A statement of the charitable purpose for which the solicitation campaign is being conducted;
- (3) A statement of the respective obligations of the professional fundraising counsel or professional solicitor and the charitable organization;
- (4) A statement of the guaranteed minimum percentage of the gross receipts from contributions that will be remitted to or retained by the charitable organization, if any, or, if the solicitation involves the sale of goods, services, or tickets to a fundraising event, the percentage of the purchase price that will be remitted to the charitable organization, if any. The stated percentage shall exclude any amount that the charitable organization is to pay as fundraising costs;
- (5) Information concerning the compensation of the professional solicitor and fundraising counsel as follows:
 - (A) If the compensation of the professional fundraising counsel or professional solicitor is contingent upon the number of contributions or the amount of revenue received, a statement shall be included specifying the percentage of the gross revenue that is the basis for that compensation. The stated percentage shall include any amount that the professional fundraising counsel or professional solicitor is to be reimbursed for fundraising costs;
 - (B) If the compensation of the professional solicitor is not contingent upon the number of contributions or amount of revenue received from the solicitation campaign, the compensation shall be expressed as a reasonable estimate of the percentage of the gross revenue, and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the professional solicitor regarding the solicitation to be conducted by the professional solicitor;
or

- (C) If the compensation of the fundraising counsel is not contingent on the number of contributions or amount of revenue received from the solicitation campaign, the compensation shall be stated in a dollar amount;
- (6) The effective and termination dates of the contract or, if the contract does not have a set termination date, a clause allowing either party a reasonable period to terminate the contract or notify the other party if either party chooses not to renew. The contract shall also contain the date services will commence with respect to solicitation in this State of contributions for a charitable organization;
- (7) A statement that the professional fundraising counsel or professional solicitor will not at any time have custody or control of contributions;
- (8) A statement that the charitable organization exercises control and approval over the content and volume of any solicitation; and
- (9) Any other information required by the rules of the attorney general.